



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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KANSAS CITY, MO 64106

REGION VII
KANSAS
MISSOURI
NEBRASKA
OKLAHOMA
SOUTH DAKOTA

August 28, 2018

Sent via email

XX XXXXXX Rainey, Attorney
XXXXXXXXXXXX, XXXX & XXXXXXXX
XXXX XXXXXX, XXX X. XXXX, XXXXXX XXX
XXXXX, XXXXXXXXX XXXXX

Re: Jenks Public Schools
OCR Case Number: 07-18-1134

Dear Mr. XXXXXX:

On March 13, 2018, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint alleging discrimination and retaliation on the basis of disability by the Jenks Public Schools (District), Jenks, Oklahoma. This letter is to confirm the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve the above-referenced complaint.

Specifically, the Complainant alleged the following:

1. The District treated the Complainant's son (Student) differently than other students without disabilities by permitting staff at the XXXXX XXXXXX and XXXXX XXXXXX XXXXX XXXX XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXX (XXXX) to exclude the XXXXXXXX from the program for XX days because of behavior issues related to his disability in violation of 34 C.F.R. § 104.4 and §104.37; and
2. The District responded to the XXXXXXXXXXXXX's advocacy by retaliating against her in violation of 34 C.F.R. §100.7(e) when it reported the Complainant to the XXXXXXXXXXXX XX XXXXX XXXXXXXXXXX (XXX).

OCR is responsible for enforcing:

- Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and its implementing regulation, 34 Code of Federal Regulations (C.F.R.) Part 104. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance (FFA). The Section 504 regulation at 34 C.F.R. § 104.61 incorporates by reference the Title VI regulation prohibiting retaliation.

- Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35. Title II prohibits discrimination on the basis of disability by public entities. The Title II regulation at 28 C.F.R. § 35.134 prohibits retaliation by public entities.

As a recipient of FFA and a public entity, the District is subject to these laws. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

Prior to the completion of OCR's investigation, the District expressed an interest in entering into a voluntary resolution agreement pursuant to Section 302 of OCR's *Case Processing Manual* (CPM), which states: *[a]llegations and issues under investigation may be resolved at any time when, prior to the conclusion of the investigation, the recipient expresses an interest in resolving the allegations and issues and OCR determines that it is appropriate to resolve them with an agreement during the course of an investigation.*

On August 30, 2018, the District signed an Agreement (copy attached) that, when fully implemented, will resolve the allegations and issues in this investigation. To resolve Allegation 1, the District agreed to notify the XXXXXXXXXXXX that upon the Student's reenrollment in the XXXX, the District will provide XXXX XXXXXXXXXXXX staff with copies of the Student's Section 504 plan or individualized educational program, and provide the Student with aids, benefits and services that meet the individual needs of the Student as adequately as the needs of nondisabled students enrolled in XXXX. If there is a waitlist for the XXXX, the District will give the Student priority status, admitting him to the program at the first opportunity. The Student will be given priority status on the waitlist only if the XXXXXXXXXXXX completes the re-enrollment process within 60 days of the District's letter to the XXXXXXXXXXXX. To resolve Allegation 2, the District agreed to provide training to XXXX officials and staff on the subject of Section 504 and Title II compliance and the anti-discrimination, anti-harassment, and anti-retaliation requirements of those laws. Please consult the Agreement for further details.

OCR considers the allegations of this complaint resolved effective the date of this letter and will monitor the District's implementation of the Agreement. When OCR concludes the District has fully implemented the terms of the Agreement, OCR will close the complaint. If the District fails to carry out the Agreement, OCR may resume the investigation.

This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the District may not harass, coerce, intimidate, or discriminate against the Complainant because she filed a complaint or participated in the complaint resolution process. If this happens, the Complainant may file another complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, we will

seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions, please contact XXXXXX XXXXX, Employee Opportunity Specialist, at (816) 268-XXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at XXXXXX.XXXXX@ed.gov.

Sincerely,

J. Earlene Gordon
Supervisory Attorney

Attachment